SUPREME COURT OF THE UNITED STATES.

No. 170.

THE TOWN OF EAST HARTFORD, PLAINTIFF IN ERROR,

vs.

THE HARTFORD RAILROAD COMPANY.

IN ERROR TO THE SUPREME COURT OF ERRORS FOR THE STATE OF CONNECTICUT.

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UNITED STATES OF AMERICA, ss:

[L. S.] The President of the United States of America, to the judges of the supreme court of errors within and for the State of Connecticut, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court of errors before you, between the town of East Hartford, in the county of Hartford, and State aforesaid, and Samuel Brewer, of said town, of the one part, now deceased, and the Hartford Bridge Company, a corporation in said county and State, duly incorporated by the laws and authority of said State, of the other part, a manifest error hath happened to the great damage of the said town of East Hartford, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all the things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, according to the law and custom of the United States, should be done.

Witness the honorable Roger B. Taney, esq., chief justice of the Supreme Court of the United States, at Washington aforesaid, this first day of November, A. D. 1848, and of the independence of the United States the seventy-third.

JOHN J. CLEVELAND, *Clerk*
Of the circuit court of the second circuit of the United States, within and for the Connecticut district.

Allowed.

WILLIAM L. STORRS,
A judge of the supreme court of errors of the State of Connecticut.

In pursuance of the within command, herewith I send the record and process in the suit referred to in the *in the* foregoing writ.

[L. S.] Witness my hand and the seal of the supreme court of errors of said State, this first day of November, A. D. 1848.

WILLIAM L. STORRS,
A judge of the supreme court of errors of the State of Connecticut.

To the honorable superior court, to be holden at Hartford, in the county of Hartford, on the fourth Tuesday of September next, sitting in chancery.

The petition of the Hartford Bridge Company, a body politic, duly incorporated by the laws of this State, with power to sue and be sued, defend and be defended, and having an office and place of business in said Hartford, humbly sheweth:

That from a very early period after the settlement of the town of Hartford, to wit, anterior to 1680, a ferry existed and was supported by said town, across Connecticut river, between the present towns of Hartford and East Hartford, which ferry has, from its earliest history to the present time, been recognised by the general assembly of this State, as a ferry which said town of Hartford was bound to support, and the emoluments of which it was entitled to receive; that said ferry was by said State originally granted to said town of Hartford, and was used and enjoyed by them as their franchise until 1783. That in said year the town of Hartford, comprising what are now the towns of Hartford, East Hartford, and Manchester, was divided, and the two last named towns set off as a new town, by the name of East Hartford.

That in the charter of said new town provision was made for the division of the town poor, and also of the property of said town. And in said division, and as a mode of equalizing the property of the town, it was provided that the privilege of keeping one-half of said ferry should belong to the town of East Hartford, during the pleasure of the general assembly. The one-half of said ferry, together with all the interest in the other half subject to said privilege, being and remaining the property of said town of Hartford.

And your petitioners further state, that they were incorporated by said assembly in 1808, among other things, for the purpose and with power to erect a bridge across said river at said Hartford, and to build a causeway from the east end of said bridge through or across the meadows in said East Hartford; and on the completion thereof, to the acceptance of a committee appointed for that purpose, to demand and receive certain rates of toll established by said assembly for crossing the same.

That the petitioners proceeded to erect and did construct a bridge and causeway, under and by virtue of said grant to the acceptance of said committee, and received tolls as they were authorized to do, until March, 1818, when said bridge was so far damaged by a flood that it became impassable, and had to be rebuilt. That in the construction of said bridge and causeway the petitioners expended a sum exceeding $96,000, and up to the period of said injury had received but a small per centage for said investment. That by said charter it is further provided, that whenever the toll shall reimburse to the company the expenses of building and repairing said bridge and causeway, and the expenses of lighting, &c., with an interest of 12 per cent. per annum, then said bridge and causeway and rate of toll shall be subject to the regulations and orders of the general assembly. That in 1818 said as-

sembly passed a resolve, prescribing certain alterations in said bridge and causeway, to wit, that the piers should be raised to the acceptance of the commissioners on said bridge, not exceeding four feet higher than they then were, the causeway to be raised not exceeding three feet. The draw to be removed and built at the west end of said bridge, which required a new pier, and subjecting the petitioners to certain other onerous provisions, which alterations, in addition to the superstructure, cost the petitioners from 12 to 20,000 dollars. They also changed the tariff of tolls, reducing them 20 or 25 per cent., and to induce the petitioners to incur the hazard of rebuilding said bridge, and to influence them to do so on the plan proposed, and to accept the tolls so prescribed, and as a consideration for incurring it, it was further provided in said last resolve, that whenever the petitioners should have repaired said bridge, and raised and repaired said causeway, to the acceptance of said commissioners, the ferries, by law established between the towns of Hartford and East Hartford, should be discontinued, and that said towns should never thereafter be permitted to transport passengers across said river unless upon the contingency therein mentioned, which contingency has never happened. That said bridge was thereafter repaired by the petitioners, the piers raised, a draw constructed, the causeway raised and repaired, in conformity with said resolve, and to the acceptance of said commissioners, and at an expense of $30,000. That from that time to this injuries have accrued to said bridge and causeway, by means of floods and ice, by which further and heavy expenditures have become necessary and have been made by the petitioners, and that they have not received six per cent. per annum upon their capital invested. That the petitioners have, from the passing of said resolve in 1818 to the date hereof, taken toll at said bridge, and at the rates prescribed by said assembly, and at all times conformed to the provisions of said resolve, and to all other regulations of said assembly. That said bridge is, and always has been, very commodious, and abundantly adequate to all public travel, and that subsequent to said resolve of 1818 said town of Hartford released to the petitioners all their interest in the ferries between said towns, which interest now remains in and belongs to them.

And the petitioners further state, that notwithstanding the prohibition so as aforesaid made by said assembly, and the pledge by the State so given to the petitioners that they should enjoy and have right to all the travel for the support and maintenance of said bridge, and the fulfilment of the contract on the part of the petitioners; and that said assembly did, in 1818, express their pleasure that the privilege of keeping one-half of said ferry by said town of East Hartford should thereafter forever cease, and did thereby revest the entire interest in said ferry in said town of Hartford, yet that said town of East Hartford has at sundry times and during several successive seasons, to wit, from September, 1836, to June, 1841, occupied said ferry, and constantly, during said period, transported passengers across said river at the places where said ferries had been previously by law established. And the

said town of East Hartford claiming, as your petitioners are informed and believe, that the resolve of 1818 is unconstitutional, have again, within a few weeks past, commenced the transportation of passengers and property, by a horse-boat, across said river, and are receiving toll therefor; and that one Samuel Brewer, selectman of said town, now has the charge and management of said ferry in behalf of said town, and as the petitioners believe, intends to run said boat until restrained by law; and your petitioners say that the town of East Hartford, since they commenced running said boat, have received more than eleven thousand dollars as toll from persons and merchandise transported across said river, all of which has been taken from your petitioners, who, relying on the faith of the State, have expended more than $126,000 on their works, and to whom there is now due more than $200,000 to make their dividends equal to what was guarantied to them by the State before the legislature would do any thing to diminish their receipts, and who are liable every spring to have their entire bridge swept from them in a moment; and that the damage to which the petitioners will be subjected, if said town are permitted to continue to run said boat the present season, will be more than one thousand dollars, and that the petitioners have no means of ascertaining the amount so received with exactness, nor the indirect damage resulting to them in addition to the fare received at such ferry, but that such damage is by no means inconsiderable, and that they have no adequate remedy at law; they therefore pray your honorable court, as a court of equity, to inquire into the truth of the aforesaid allegations, and on their being found true, to order and decree that said town of East Hartford, and the said Brewer, and all other their servants and agents, be enjoined and commanded not to use or occupy said ferry, or transport property or passengers across said river, or receive toll therefor, nor do any other act or acts in relation thereto which will divert the travel from said bridge, to the injury of the petitioners, or grant such other relief as shall be deemed just and reasonable; and your petitioners, as in duty bound, will ever pray.

Dated at Hartford, this 4th day of July, 1842.

The Hartford Bridge Company,

By F. PARSONS, *Attorney.*

To the sheriff of Hartford county, his deputies, or either constable of the town of East Hartford within said county, greeting:

By authority of the State of Connecticut, you are hereby commanded to summon the aforesaid town of East Hartford, and the said Samuel Brewer of said town, to appear before the superior court, to be holden at said Hartford on the fourth Tuesday of September next, then and there to show reason, if any they have, why the prayer of the foregoing petition should not be granted. Hereof fail not, &c.

Dated at Hartford this 4th day of July, A. D. 1842.

BENNING MAN, *Justice of the peace.*

HARTFORD COUNTY, ss: EAST HARTFORD, *July 20th*, 1842.

Then I left a true and attested copy of the foregoing petition and citation at the usual place of abode of Salmon Phelps, clerk of the town of East Hartford, and also read the same in the hearing of the above named Samuel Brewer, selectman of the said town of East Hartford.

Attest: CHESTER ADAMS, *Sheriff*.

HARTFORD BRIDGE COMPANY vs. EAST HARTFORD & al. } Hartford superior court.

And now the said town of East Hartford, defendants, reserving all exceptions to the plaintiff's bill, and answering the same as far as they are advised or deem it necessary to answer, say:

That the said town of East Hartford and the inhabitants thereof have long had, and now have, the right and privilege of keeping and maintaining a ferry across the Connecticut river, between the towns of Hartford and East Hartford, at the place or places where the ferries heretofore possessed and enjoyed by said towns, have usually been maintained by them, and of carrying and transporting persons and property across said river in any boat or boats kept by or by the authority of said town of East Hartford for that purpose, and of receiving for such carriage and conveyance of said persons and property certain freights or ferriages authorized and established by the general assembly.

That said town of Hartford has long had and now has (unless the same has been conveyed or taken away) a similar right of a ferry across said river, between said towns, at said place or places, and of carrying and transporting persons and property across said river, in any boat or boats kept by said town of Hartford, or under its authority, for that purpose, and of receiving for such carriage and conveyance of said persons and property the freights or ferriages authorized and established by the general assembly, and said towns have at all times quietly possessed and enjoyed the said right and privilege so belonging to each of them respectively, except when interrupted or hindered by the plaintiffs, or at their instance.

That in the year 1808 the general assembly did incorporate the plaintiffs by the name and style of the Hartford Bridge Company, and authorize said company to erect a bridge across the Connecticut river, at the place where their bridge now stands, and to build a causeway through East Hartford meadows, and to take certain tolls; but it was provided by said act or charter of incorporation, that said bridge should be built with arches, supported on solid stone piers of the height of 32 feet above common low water mark, in the month of August, in common seasons; and that the superstructure should consist of arches of timber and wood, so constructed that the travel should be on a horizontal line in the chord of the arch; and that nothing in said charter or grant should then, or at any future time, in any way lessen, impair, injure, or obstruct, the right to keep up and maintain the ferries established by

law between the towns of Hartford and East Hartford. And the said defendants say that the said bridge was built in violation of said charter, and that said piers were not built of the aforesaid height, and that said bridge was not so built that the travel should be on a horizontal line in the chord of the arch, but over the crown of the arch, by reason whereof the lower parts of said arches were exposed to the ice, and were carried away or injured in March, 1818, so that said bridge became impassable, and in consequence of such disregard of the injunctions of the general assembly, it became necessary, as it was the duty of the plaintiffs, to rebuild it.

And the said defendants say that the general assembly, by said act or resolve of 1818, reserved the power to alter the same as the general assembly should deem expedient.

And the said defendants further say that the plaintiffs, before they proceeded to rebuild or repair said bridge, and while the public travel was interrupted, took occasion to apply to the general assembly for a new charter, and for the suppression of said ferries; upon which application the general assembly, in May, 1818, granted the plaintiffs a new charter, and therein provided that the plaintiffs should, within eighteen months from the rising of said assembly, rebuild said bridge; that the piers should be raised to the acceptance of commissioners, not exceeding four feet higher than they then were; that a suitable draw should be erected and placed over the channel of the river at the west end of the bridge, not less than thirty feet wide; that the bridge should be built on the chord of the arch, and not on the crown thereof, conformably to the directions in the original grant; and that the causeway should be raised to the acceptance of said commissioners, not to exceed three feet higher than it then was; and that said bridge and causeway should be accepted and approved by said commissioners, appointed by the general assembly as aforesaid; and that unless said bridge should be rebuilt and said causeway be repaired, as in said charter or resolve provided, it should be lawful for the towns of Hartford and East Hartford to revive said ferry and improve the same, in the same manner and with the same privileges as if said ferry had not been discontinued. And the said defendants aver that the plaintiffs did not comply with said charter of 1818, and did not rebuild said bridge or repair said causeway as required thereby; and, among other things, did not construct and place over the channel of said river, at the west end of said bridge, a suitable draw not less than thirty feet wide, and no such draw of the width of thirty feet has been erected or placed over said channel at the west end of said bridge as said resolve required; and the said towns of Hartford and East Hartford had and have, and at all times have had, a right to revive and improve said ferries, in the same manner and with the same privileges as before the passage of said resolve, and it was lawful for them to do so, as if said new charter of 1818 had not been granted.

And the said defendants say, that the general assembly, by the terms of said resolve of 1818, reserved the power to alter, amend, or repeal it, as the general assembly shall deem expedient.

And the said defendants say, that the general assembly, at their session in May, 1836, did repeal so much of said resolve of 1818 as abolished or interdicted the ferry between the towns of Hartford and East Hartford, and so much as prohibited the transporting of passengers across the Connecticut river by said towns, and did thereby alter and repeal said resolve of 1818, so far as the same in any event might conflict with the right of East Hartford to keep up and maintain their said ferry.

And thereupon the defendants, the said town of East Hartford, in 1836, did open said ferry, and transport passengers and property across said river at the rates established by law, and were in the full possession and enjoyment of their said franchise, and continued to keep up and maintain their said ferry until the general assembly, at the instance of the plaintiffs, in May, 1841, passed a resolve purporting to repeal the aforesaid resolve of May, 1836.

And the defendants say, that the general assembly, at its session in May, 1842, repealed the said resolve of May, 1841, so far as the same abolished or interdicted said ferry between said towns of Hartford and East Hartford, or the right of East Hartford to keep and maintain said ferry, and so far as it prohibited the transport of passengers across said river by said town of East Hartford, and the general assembly did then restore and confirm to said town of East Hartford the right of said town to keep and use said ferry for the transport of passengers across said Connecticut river, between the towns of Hartford and East Hartford, as possessed by said town of East Hartford prior to said act of 1841, and did authorize said town of East Hartford to exercise said right, and to continue said ferry, taking such toll thereat as the general assembly had provided, or might thereafter provide, for transporting passengers, teams, and vehicles across said river at said place, as the general assembly had right to do.

And these defendants therefore say, that they, the said town of East Hartford, and the inhabitants thereof, under their ancient right as recognised, granted, renewed, confirmed, and re-enacted by the general assembly of this State, and by the authority thereof, have kept and maintained said ferry, and transported passengers and property at the ferriages established by law, between said towns of Hartford and East Hartford, as it was lawful for them to do under the right and authority aforesaid.

As to all that part of the plaintiffs' bill which alleges that all the right and interest of said town of East Hartford in said ferry, vested by act of the legislature in 1818 in said town of Hartford, and that after said resolve of 1818 said town of Hartford released their interest in the said ferries to the plaintiffs, and that said interest now remains in, and belongs to, the plaintiffs, the said defendants further answer and say, that said right or interest did not become vested in said town of Hartford, or the plaintiffs, and that the general assembly never, in any manner, granted, transferred, or vested the right of said town of East Hartford in said ferries to, or in, the said town of Hartford; that the said town of Hartford never, in any manner, had or claimed the same, or

any greater right or interest than said town of Hartford had before said act was passed, but at all times recognised and admitted the right of East Hartford as claimed by East Hartford; and the said town of Hartford never undertook, intended, or designed to convey, assign, lease, or release to the plaintiffs the said right of East Hartford, or the said right claimed by said East Hartford, or any interest which had at any time been vested in said town of East Hartford; and if any such transfer or release has been obtained of the town of Hartford, it has been obtained by mistake and misapprehension on the part of said town of Hartford, and under color of taking a release or transfer of the right of Hartford never claimed by said town of East Hartford, and the said Hartford Bridge Company has no just or equitable claim thereto.

And the defendants say, that the said Hartford Bridge Company are not authorized by their charter as originally granted, or as since altered or amended, in any way or manner, to become the owners of any ferry, or of any right or interest therein, or to carry on, keep up, or maintain any ferry, or to hold the said ferry, or any interest therein, by lease, release, or otherwise, and that said ferry was granted and established, and is still continued by the general assembly, for the public convenience, and is of public convenience and necessity, and is regulated by law, and the said Hartford Bridge Company have no power, and do not intend, and have not attempted to maintain the same.

And the said defendants say, that the only release or conveyance which the plaintiffs claim from the said town of Hartford purports to be an indenture or contract between said town of Hartford, executed by certain of then selectmen of the one part, and the Hartford Bridge Company of the other part, and to bear date the 14th of May, 1842, and to release and convey on the part of said town their interest in the ferries over and across the Connecticut river, between the city of Hartford and town of East Hartford, for the sum of one hundred dollars per annum, payable each year for twelve years, to be paid by said Hartford Bridge Company, and purporting to have been accepted and approved by said town of Hartford on the 18th day of May, 1842, and ratified and confirmed on their part and behalf. Provided that at any time after the term of twelve years, on vote of said town of Hartford, the interest in said ferries therein conveyed shall revert to said town of Hartford, they refunding to said Hartford Bridge Company one-half the amount so paid as aforesaid; and these defendants say, that before the signing of said instrument, or the said vote of said town of Hartford, the said town of East Hartford had applied by their petition to the general assembly, at its session in May, 1842, to repeal the aforesaid resolve of 1841 as conflicting with the rights of East Hartford in said ferries, and said petition had been duly served on the said Hartford Bridge Company, and on said town of Hartford, and said petition and the matter in controversy were pending before said general assembly; and while the same were so pending, and the plaintiffs had appeared to contest the claims of East Hartford, during the session of said assembly, the aforesaid attempt was made by the Hartford Bridge Company to

thwart and defeat the action of the general assembly in the premises and while the Hartford Bridge Company professed to buy or lease the interest claimed by the town of Hartford, the said instrument was artfully drawn for the purpose of including the interest of the town of East Hartford, then in controversy before the general assembly, but which the town of Hartford never made claim to, but always recognised and admitted to be in said town of East Hartford, to the end that the Hartford Bridge Company might set up a claim to the ferry rights of East Hartford through a lease or release of said town of Hartford, but without any consideration therefor, as the consideration agreed to be paid was only for the ferry right claimed by said town of Hartford.

And these defendants say, that the said selectmen neither had nor claimed to have any authority to execute said instrument, but prepared it only that it might be submitted to the town of Hartford, in town meeting assembled; and that said meeting of the 18th of May, 1842, at which the aforesaid vote approving said instrument with the proviso and modification aforesaid was passed, was not a legal meeting of said town of Hartford for that purpose, and that said town of Hartford had no right or authority to make or execute any such contract, lease, or release to the said Hartford Bridge Company in manner aforesaid, or in any other way.

And the said defendants say, that true it is, the town of East Hartford did maintain said ferry, and transport persons and property across said river at said ferry place from 1836 until May or June, 1841, and that the Hartford Bridge Company acquiesced therein, and brought no action at law or other suit against the said town of East Hartford or their agents therefor, either to try their right, or interrupt said ferry, or for any other purpose, as the plaintiffs might and would have done had they supposed they had any legal or equitable right, or any just cause of action or complaint against the defendants.

And as to all the allegations in the plaintiffs' bill not expressly admitted by this answer, these defendants do not admit the same, but leave the plaintiffs to the proof thereof; and they pray that the plaintiffs' bill may be dismissed, and that these defendants may be allowed their costs.

CHAPMAN AND TOUCEY,
For the said town of East Hartford.

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vs.
EAST HARTFORD AND AL.

And now the said Samuel Brewer says, that the allegations in the plaintiffs' said bill are not true, and if true, are insufficient.

CHAPMAN AND TOUCEY,
For Samuel Brewer.

To the honorable superior court, to be holden by adjournment at Hartford, in and for the county of Hartford, on the 2d Tuesday of June, A. D. 1843:

At an adjourned term of said court holden at said Hartford on the

first day of May, 1843, upon a bill in equity then and there pending before said court, in which bill the Hartford Bridge Company is complainant, and the town of East Hartford and Samuel Brewer, of said town of East Hartford, are respondents, the subscribers were appointed a committee to find and report to said court, at an adjourned session thereof, to be holden at Hartford aforesaid, on the 2d Tuesday of June, 1843, the facts in said bill and the answer thereto. And having duly notified the parties of the time when, and the place where, we would meet and hear them in relation to the facts in said bill and answer contained, we, in conformity with said notice, met the parties on the 6th day of June instant, at the city court room in said town of Hartford, and, having been first sworn according to law, fully heard them, from day to day, by their counsel and with their testimony and witnesses, and now find and report the facts following, viz: That in the month of December, 1681, the town of Hartford passed a vote regulating the tolls to be taken at the ferry over Connecticut river, between said town of Hartford and what is now the town of East Hartford; which appears by a copy of said vote hereunto attached and marked A. That on the 31st day of March, 1682, said ferry was, by said town of Hartford, leased to Thomas Cadwell for the term of seven years; a copy of which lease is attached hereunto, marked B. That on the 13th day of December, 1687, said lease was renewed to the same Thomas Cadwell for the further term of seven years; a copy of which renewal is attached hereunto, and marked C. That on the 27th day of December, 1694, said town of Hartford chose a committee to contract with some person to take the ferry upon the best terms in their power; of which vote a copy is attached hereunto, marked D. That on the fifteenth day of January, 1695-'6, said committee engaged the said Thomas Cadwell to take the ferry aforesaid for seven years; of which lease a copy is hereunto attached, marked E. That at the session of the legislature in October, 1695, the tolls to be taken, both at the Hartford and Windsor ferries, were regulated by law, as will appear by an act in the edition of statutes, 1695. That the tolls or fares to be taken at the Hartford ferry were regulated by legislative enactments, as appears in the edition of statutes, 1808. That from the year 1681 until October, 1783, said ferry continued to be the franchise of said town of Hartford, and during that period was used and enjoyed as such by the town of Hartford alone; but that the legislature, at their session in October, 1783, incorporated the town of East Hartford, granting to said town of East Hartford one half of said ferry during the pleasure of the general assembly; a copy of which act is hereunto attached, marked F. That said town of Hartford, on the first day of February, 1810, for the consideration of an annual rent of forty-five dollars, leased its moiety of said ferry to Daniel Buck and Elisha Williams for the term of five years, and that the payment of the rent reserved in said lease was duly made by said lessees up to the year 1814, when, in consequence of the reduced travel across said ferry, said town of Hartford exacted of said Buck and Williams no rent thereafter; but that certain individuals in-

terested in the business and real estate on Ferry street, in said town of Hartford, and others, at their own expense procured a ferry boat, which was run across said ferry, and from which they received no toll whatever, and no compensation, other than an allowance made by the ferryman for the use of the boat, the town of Hartford making no opposition to this use of their right, which continued until the year 1818. That at the session of the general assembly in October, 1808, upon the petition of John Watson and others, an act or resolve was passed incorporating the said John Watson and others by the name of the Hartford Bridge Company, and granting them liberty to erect a bridge across Connecticut river, and to raise and build a causeway through the meadows of East Hartford; which act or resolve is made a part of this report, and is contained in the volume of Private Acts of the State of Connecticut, at the 254th page. That the petitioners, in pursuance of said charter or act of incorporation, erected a bridge across said Connecticut river, and built said causeway through the meadows of East Hartford, and in all things pursued the provisions contained in said act of incorporation, except that said bridge was not so erected that the travel was on a horizontal line in the chord of the arch, nor were the piers as high as contemplated by the act of incorporation; but said bridge and causeway, after the same were completed, were accepted by John Caldwell, Jonathan Brace, and Andrew Kingsbury, esquires, a standing committee by the general assembly appointed in said act of incorporation, for all the purposes mentioned in said act, whose certificate, marked G, is hereunto attached; and that no objection to the mode or manner of the erection of said bridge in not having the travel thereon on a horizontal line in the chord of the arch, nor to the height of said piers, has been made known until after the petition which the petitioners preferred to the October session of the general assembly in the year 1817; but that the general assembly has once and again acted upon the subject of the tolls of said bridge and other interests appertaining thereto, and granted the petitioners a new charter in the year 1818, without claiming that the charter of 1808 was forfeited by a non-compliance with any of the conditions thereof. That the petitioners, on the 3d day of October, 1817, made application to the general assembly for a discontinuance of said ferry between the towns of Hartford and East Hartford; which petition is hereunto attached, marked H; upon which petition the general assembly passed a resolve or act; which resolve or act is copied, and is hereunto attached, marked I. That under said resolve the petitioners expended large sums in the repairs of said bridge and causeway, under the inspection of the said John Caldwell, Jonathan Brace, and Anthony Kingsbury, esquires, who, by said act or resolve, were, by said general assembly, constituted a committee or commissioners to superintend the repairs on said bridge and causeway. That in erecting or repairing said bridge the petitioners, from time to time, received directions from said committee or commissioners, which directions were followed and obeyed, and said causeway and bridge were repaired and ready for the accommodation of the public on the first day of December, 1818, as ap

pears by the certificate of said committee or commissioners hereunto attached, marked K; but, in the erection of said bridge by the petitioners, that part of the wood work or floor of said bridge which is opened or unfolded for the passage of vessels, was constructed only 24 feet 7 inches wide, while the space underneath, between the abutment and pier of said bridge on the west side, through which the hull of vessels must pass, is more than 30 feet wide. That no delay has ever been occasioned to any vessel in passing through said bridge for want of space or room through which to pass; nor does it appear that any objection against the width of the passage through said bridge was ever raised by the public, or by those who are in the habit of passing with their vessels through said bridge, until after the year 1836. And this committee are of opinion, and do find, that notwithstanding the opening in the wood work of said bridge, through which vessels are to pass, does not exceed 24 feet 7 inches in width, yet there is adequate room for the accommodation of all who have occasion to pass through said bridge with their vessels, and no inconvenience is suffered by the public in consequence of the narrowness of the passage through the wood work of said bridge. And although the rights of the petitioners in relation to said bridge, and their compliance with, or violation of, the terms and provisions of their several charters, have been frequently, both incidentally and directly, the subjects of discussion and debate before the general assembly, and their decision upon said points been had, yet has no real or apparent non-compliance on the part of the petitioners with the terms or provisions of the charter of 1818, in neglecting to make the opening in the wood work of said bridge for the passage of vessels wider than 24 feet 7 inches, ever been deemed or adjudged by said general assembly a violation of said charter or a forfeiture thereof, notwithstanding they have once and again been urged to come to such a conclusion. That on the 21st day of April, 1837, S. W. Mills and others preferred their petition to the general assembly of said State, to be holden at Hartford on the first Wednesday of May of the same year, complaining, among other things, of the width of the draw of said bridge; a copy of which petition is hereunto attached, marked L; upon which petition, at the same session of the general assembly, a report of the joint standing committee on roads and bridges was made and accepted; a copy of which is hereunto attached, marked M. That when the town of Manchester, by an act of the general assembly passed at their session in May, 1823, was incorporated into a town and set off from said town of East Hartford, no notice was taken in said act of the interest of said town of East Hartford in said ferry; which act incorporating said town of Manchester may be found on the 1,155th page of the private acts or laws of the State of Connecticut, and is made a part of this report. That after the passage of the act of the year 1818 by the general assembly, and the discontinuance of the ferry between the towns of Hartford and East Hartford, the town of Hartford, at an adjourned town meeting holden in said town on the first Monday of December, 1835, passed several votes; copies of which votes are hereunto attached, marked N; and that prior to the year 1818, and the passage of the act of the general

assembly granting to the petitioners permission to erect a new bridge, the inhabitants of said town of Hartford, at an adjourned town meeting by them holden on the 29th day of December, 1817, passed a vote, a copy of which, marked O, is hereunto attached. That at the session of the general assembly in May, 1836, an act was passed repealing so much of the act of 1818 as abolished or discontinued the ferry between the towns of Hartford and East Hartford; which act is made a part of this report, and is on the 565th page of the private acts or laws of the State of Connecticut; which act or resolve was passed upon the petition of Caleb Stockbridge and others; to which petition the towns of Hartford and East Hartford were made respondents. That said general assembly, at their session in May, 1842, passed a resolve, which is made a part of this report, and is found on the 21st page of the resolutions of the general assembly, passed May session, 1842. That on the 14th day of May, 1842, application was made by the agent and attorney of the petitioners, to several of the selectmen of said town of Hartford, for the purchase of the right of said town of Hartford in and to said ferry. That several of said selectmen, to whom said application was made, did not suppose that said town of Hartford had an interest in more than a moiety of said ferry, although they had been from time to time conversant with all the facts in relation to said ferry, and the various claims concerning the same, made before the legislature when the rights of the petitioners and of said town of East Hartford were discussed, and that the petitioners claimed that neither the town of Hartford nor East Hartford had any right to said ferry, but that said selectmen subscribed an instrument or indenture, a copy of which, marked R, is hereunto attached, subject, however, to the approval of the inhabitants of said town of Hartford, to be expressed at a town meeting to be subsequently held; and that on the 18th day of May, 1842, said town of Hartford, at a special town meeting on that day held by virtue of warning which is hereunto attached, marked S, approved of said indenture or instrument thus executed previously by said selectmen of said town of Hartford; and we find that the agent and attorney of the petitioners, when negotiating with said selectmen in relation to the purchase by the petitioners of the right of said town of Hartford in and to said ferry, distinctly stated to said selectmen that the object of the petitioner in purchasing the right of the said town of Hartford in and to said ferry, was to enable the petitioners to commence some process before a court of law or equity, by which the questions at issue between the petitioners and the town of East Hartford might be finally decided. That the whole negotiation, between the agent and attorney of the petitioners and said selectmen and town of Hartford, was fairly and honestly conducted. That the petitioners paid to said town of Hartford the first annual payment due on said instrument, in the month of September, 1842. That from time immemorial, until the year 1818, no boats other than flat-bottomed scow boats moved by oars had been used on said ferry, but that, from the year 1836 until this time, said town of East Hartford, when using said ferry, has run a

horse boat at said ferry. That, with the exception of the time when the bridge of the petitioners has been impassable and said town of Hartford has by law been compelled to keep up said ferry, the said town of Hartford has not made any use of said ferry as a franchise, or derived any benefit or emolument therefrom, since the year 1814. That from the time when the bridge of the petitioners was completed, in the year 1818, until after the passage of the resolve of the general assembly in May, 1836, said ferry between the towns of Hartford and East Hartford was not used as a public ferry, and no boats during said time were kept thereat by said towns of Hartford and East Hartford, or either of them, to transport and convey passengers, freight, &c. That from the time when said ferry between the towns of Hartford and East Hartford was restored by the general assembly in 1836, until it was discontinued, in 1841, the town of East Hartford has received for ferriages and tolls collected at said ferry, which during said time has been carried on solely by said town of East Hartford, a large sum of money, viz., more than ten thousand dollars. That, after the year 1814, the ferry between said towns of Hartford and East Hartford was not kept up by both or either of said towns, but that individuals, upon their own responsibility and at their own cost and charges, managed said ferry, and collected toll thereon, until the bridge first erected by the petitioners was partially or wholly destroyed in the year 1818, when by law said towns of Hartford and East Hartford were compelled to keep boats at said ferry for the accommodation of the public travel, which the said town of Hartford relinquished and abandoned as soon as the petitioners rebuilt or repaired their said bridge, the erection of which relieved the said towns of Hartford and East Hartford from the necessity and expense of maintaining boats suitable for crossing the meadows in time of flood. That since the completion of the first bridge of the petitioners in 1811, the petitioners have ever been accustomed to take toll according to law of all who have made use of their said bridge, nor has any person disputed or resisted their right upon the pretence that either the first or the second bridge was not constructed according to the provisions of their several charters or grants. That the petitioners, since the purchase by them of the right of the town of Hartford in and to said ferry, have not run any boat across said ferry, nor made any provision for the accommodation of the public travel at said ferry, nor commenced, until the date of this petition, any suit at law or bill in equity against the respondents, or either of them. The committee further find, that the petitioners have invested in said bridge and causeway a large sum of money; that the bridge and causeway erected by them under the grant or charter of 1808, and which was accepted and approved by the commissioners or standing committee appointed by the general assembly, cost more than ninety-six thousand dollars; that to reconstruct said bridge under the grant or charter of 1818, and to rebuild said causeway, and make therein and in said bridge such alterations and improvements as were directed by the act of the legislature, the petitioners expended about thirty thousand dol-

lars; and that, for various other repairs and expenditures on said bridge and causeway, the petitioners have disbursed a further sum of forty-seven thousand dollars and upwards; so that the standing committee or commissioners on said bridge, when settling the accounts of said Hartford Bridge Company, on the 12th day of April, 1842, found and reported to the general assembly, that on said 12th day of April, 1842, there was due to the petitioners, for arrears of interest on the capital by them invested, at the rate of 12 per cent. per annum, the sum of $227,270$\frac{11}{100}$; that the annual receipts for toll, so far as the same can be ascertained from the treasury office, are contained in a schedule hereunto attached, marked T. The committee find that Samuel Brewer, one of the respondents, at the time of commencing this petition was one of the selectmen of said town of East Hartford, and, as agent of said town of East Hartford, had charge of said ferry and of the ferryboat. And we further find, that although some of the inhabitants of East Hartford, Glastenbury, and other towns, are personally accommodated by a continuance of the ferry, especially when their business in the town of Hartford calls them into State street, or parts of the town of Hartford lying south of State street, inasmuch as the distance which they are under the necessity of travelling is considerably diminished, and the toll or fare which they are compelled to pay is less at the ferry than at the bridge, still it is only when the river is low in the summer season, and the weather not windy and boisterous, that the ferry is preferable to the bridge, even to these individuals. But the committee are of opinion, and do find, that said ferry is not of public convenience and necessity, nor do the interests of the community require its continuance. The committee further find, that the bridge of the Hartford Bridge Company, over Connecticut river, is not only highly advantageous to the prosperity and increasing growth of both the towns of Hartford and East Hartford, but is of great public convenience to all who have occasion to cross Connecticut river at this place. That the value of real estate, both in the towns of Hartford and East Hartford, has been greatly enhanced since the erection of said bridge, and in consequence of the facilities of intercourse with the city of Hartford and places contiguous, thereby furnished; and that said bridge is of great public convenience and necessity, and is abundantly adequate to accommodate all who may wish to come to or depart from Hartford across Connecticut river, between the towns of Hartford and East Hartford; neither can the inhabitants of Hartford or East Hartford, nor the community at large, dispense with said bridge. The committee is of opinion that the real estate in the towns of Hartford and East Hartford, since the erection of said bridge, and by reason of the facilities thereby furnished to travellers and others, has been increased in value to an amount greater than all that has been expended by the petitioners in the erection and support of said bridge and causeway since the year 1808, and that, were said ferry of public convenience and necessity, it could not be made at all seasons of the year, both by night and by day, so safe and so commodious as the bridge of the petitioners now is and

has ever been. That at the time of the passage of the act of 1818 the tolls, which the petitioners were before that time authorized to receive, were much reduced. That the legislature have from time to time taken into consideration said bridge and ferry, and the interests and rights of the public in relation thereto, will appear by several resolves and acts of said legislature, all of which are part of this report, two of which acts are found on the 260th and two on the 261st page of the private laws of the State of Connecticut, and one on the 55th page of the resolves passed by the general assembly in the year 1839, and two of said resolves are to be found on the 564th and 565th pages of the private acts of the State of Connecticut. That the resolve or act passed by general assembly, at their session in May, 1842, restoring to the towns of Hartford and E. Hartford the ferry between said towns, was founded upon a report of the joint select committee of the legislature, a copy of which report, marked X, is hereunto attached; to the admission of which report as evidence on the part of the respondents the petitioners objected, and the same was admitted, subject to such objection. That, at a session of the general assembly in May, 1841, a resolve was passed discontinuing or suppressing said ferry, which act or resolve is hereunto attached, marked Y; which act or resolve was passed upon the report of a committee of said assembly, a copy of which report is hereunto attached, marked Z; to the admission of which report on the part of the petitioners an objection was made by the respondents, and the same was admitted, subject to said objection. That, at the time when said instrument or indenture between the town of Hartford and the petitioners was executed, a petition in favor of the town of East Hartford was pending before the legislature, to which petition the said town of Hartford and the petitioners in this bill were respondents.

All which is respectfully submitted by

EB. LEARNED,
JOHN STEWART,
Com'tee.

HARTFORD, *June* 10, 1843.

Committee's fees, viz: Eb. Learned, 7 days, $35.00; expenses, $14.18; J. Stewart, 5 days, $25.00; expenses, $8.50—$82.68.

Documents.

A.

At a town meeting held in Hartford, December, 1681, the town, considering the conveniency and necessity of having a highway from the Great river to the end of the Long lots of the east side of said river, as also that a ferry be settled at Hartford—for the attainment thereof, the town do desire and appoint the present townsmen, with the advice of Major Talcott, Captain Allyn, Mr. James Steele, and Ensign Stanley, to agree with some suitable person to keep a ferry here at Hartford, and to let it to him for seven years; and also to get the passage as

cheap for the inhabitants of the town as may be; and also to endeavor that the surveyor make the highway passable as soon as may be.

Town clerk's office, ss., Hartford, July 22d, 1842.

The foregoing is a true copy of record.

Attest: HENRY FRANCIS, *Town clerk.*

B.

It is agreed between Thomas Cadwell, of Hartford, on the one part, and the townsmen of Hartford, on the other party, as followeth, viz: they do agree that Thomas Cadwell shall keep the ferry at Hartford, from the date hereof, the full term of seven years, the ferry to be kept at the common landing place at Hartford; and the said Thomas Cadwell is to maintain a sufficient boat for the passage of horse and man, and a canoe good and sufficient to carry over single persons; and the said Thomas Cadwell is to be allowed, for the carrying over horse and man, six pence a time in money, if they be not of this town, and two pence for a single man in money; and if they be of this town, they are to pay a penny in silver a single person, or two pence in other pay; and for a man and horse, three pence in silver, or six pence in other pay; and for those of this town he carries over after the daylight is shut in, they shall pay six pence a horse and man in money, or eight pence in other pay; and for single persons, two pence in silver, or three pence in other pay. And the said Thomas Cadwell doth engage that the said ferry shall be carefully attended the whole term of seven years aforesaid; and in case the said Thomas Cadwell shall not carefully and sufficiently attend the said ferry, it shall be in the power of the townsmen of Hartford to settle a new ferryman in the place; and in case the said Thomas Cadwell shall grow weary of his ferry, he shall give the selectmen half a year's notice for to provide themselves with a ferryman in his room.

For the confirmation hereof we set to our hands, this 31st of March, 1682.

We signify our consent hereto by subscribing.

JOHN TALCOTT, CYPRIAN NICHOLS,
JOHN ALLYN, CALEB STANLEY,
JAMES STEELE, JACOB WHITE,
NATHANIEL STANLEY, JOHN MARSH,
THOMAS CADWELL.

C.

December 13th, 1687.—The town, by their vote, granted Thomas Cadwell, senior, the ferriage above mentioned unto him seven years more than is above expressed, upon the same terms he had it for the first seven years.

D.

At a town meeting, December the 27th, 1694, the town made choice of a committee, viz: Colonel Allyn, Captain Stanley, Captain

Nichols, Captain Wadsworth, Mr. Bull, to agree with a person to attend the ferry over the Great river, in the town's behalf, on the best terms they can.

E.

Hartford, January 15th, 1695–'6.—It is agreed between Thomas Cadwell, of the one part, and the committee chosen by the town of Hartford, on the other part, as followeth: first, that he shall carry over all travellers at the price the general court hath stated; secondly, he shall carry over all the inhabitants as he shall agree with them, and with those he doth not agree with, he shall receive for every single man's person, or woman's person, one penny money or two pence in pay; and for every horse and his load, in money, three pence, or six pence in pay; and upon these terms he shall have the ferry for seven years; only in case he shall grow weary of the ferry, he giving notice that he will leave the ferry three months, he shall have liberty so to do. And if any of the inhabitants do carry over any horses or travellers over the said Connecticut river besides the ferryman, they shall be liable to pay the ferryman his full freight for ferriage, as the law and this agreement doth agree.

And for such as go with grists to the mill on the other side the river, they shall pay four pence for horse and his load, going and coming, in money, or six pence in pay. And if the town grow weary of the said ferryman, they, in three months' warning, may discharge him; and after nine o'clock, those that pass the ferry shall pay double ferriage.

THOMAS CADWELL,
JOHN ALLYN,
CALEB STANLEY,
JOSEPH WADSWORTH,
CYPRIAN NICHOLS,
JOSEPH BULL,
The committee in behalf of the town of Hartford.

Town clerk's office, ss., Hartford, July 22d, 1842.
The above and foregoing is a true copy of record in this office.
Attest: HENRY FRANCIS, *Town clerk.*

F.

At a general assembly of the governor and company of the State of Connecticut, in America, holden at New Haven, on the second Thursday in October, anno domini 1783.

And that all the moneys due to the late town of Hartford, the stock on hand, if any, and the debts owing by said town, and the poor belonging to said town, shall be divided between said late town and the town now constituted, according to their lists; and the privilege of keeping one-half of the ferry across Connecticut river, at the place or places where the same has been usually kept in said town of Hartford, shall belong to East Hartford during the pleasure of this assembly.

A true extract from the act or resolve of the general assembly incorporating the town of East Hartford, as the same appears of record.
Examined by THOMAS DAY, *Secretary*.

G.

We, the subscribers, appointed a committee by a resolve of the general assembly of the State of Connecticut, holden at New Haven on the second Thursday of October, A. D. 1808, for the purpose of superintending the building of a bridge across Connecticut river at Hartford, and a causeway leading therefrom through East Hartford meadows, by the Hartford Bridge Company, with authority to determine when said company shall have completed said bridge and causeway agreeably to the provisions of said resolve, do certify, that we have examined said bridge and causeway, and declare the same to be so far completed as to entitle said company to erect a gate or gates on said bridge and causeway, and to demand and receive from all persons passing them the toll provided by said resolve.

JONATHAN BRACE,
JOHN CALDWELL,
A. KINGSBURY,
Committee.

Hartford, March the 25th, A. D. 1811.

H.

To the honorable general assembly of the State of Connecticut, to be holden at New Haven, on the second Thursday of October, 1817.

The petition of the Hartford Bridge Company, by their president and directors, humbly sheweth: that the honorable assembly, at their session in October, 1808, granted to said company the right of building a bridge across Connecticut river between the towns of Hartford and East Hartford; that, by virtue of said grant, a bridge was erected across said river, in the summer and fall of 1809, at an expense of ninety-six thousand [and] eighty-five dollars; that, in said grant, the right to keep up and maintain the ferries established by law between the said towns of Hartford and East Hartford was reserved, from a mistaken apprehension that a bridge could not be erected and supported with safety to the bridge and security to the adjoining fields; that the experience of eight years hath demonstrated the practicability of maintaining a bridge where the present one is erected without hazarding its safety or injuring the right of property; that the right of said ferries hath long since been forfeited by non-user; that travellers who cross the ferry generally pass over the bridges in the causeway, and not only use the property of said company without an equivalent, but, in some instances, expose them to the payment of losses occasioned by accidents; that said bridge furnishes, at all times and seasons, an easy and safe passage across said river, while the ferries are kept up only in the day time in the summer season, and then only when the water is low; that no boats are fur-

nished for the transportation of passengers across the flood waters in East Hartford meadows; that the towns of Hartford and East Hartford receive little or no emolument from said ferries, although they command nearly one-half of the travel at certain seasons of the year; that these ferries are, in a great measure, supported by private subscription; that so long as said bridge is supported, all the time and money devoted to said ferries are an unnecessary expense, and of course a total loss to community.

Your petitioners would further represent to your honors, that, in their humble opinion, the said bridge must fall a sacrifice unless the said ferries are discontinued; that the revenue derived from said bridge is small, indeed, compared with the original expense of building, the perpetual expense of repairs, and the approaching expense of rebuilding; that, in two or three years, it is expected that an additional expense of fifteen or sixteen thousand dollars will accrue to said company.

Your petitioners therefore humbly pray the honorable assembly to take their case into their wise consideration, and to discontinue said ferries, or in some other way to grant relief; as in duty bound they will ever pray.

Dated at Hartford, the 3d day of October, 1817.

JOHN MORGAN, *President.*
GAIUS LYMAN,
JOSEPH LATHROP,
WARD WOODBRIDGE,
CHARLES DODD,
Directors.

Duty of two dollars is paid hereon.

S. W. CANDEE, *Justice of peace.*

A true copy of the original petition on file.
Examined by— THOMAS DAY, *Secretary.*

I.

At a general assembly of the State of Connecticut, holden at Hartford, in said State, on the second Thursday of May, A. D. 1818.

Upon the petition of the Hartford Bridge Company, shewing to this assembly that the honorable general assembly, at their session in October, A. D. 1808, granted to said company the right of building a bridge across Connecticut river, between the towns of Hartford and East Hartford; that, by virtue of said grant, a bridge was erected across said river in the summer and fall of A. D. 1809; that, in said grant, the right to keep up and maintain the ferries established by law between the said towns of Hartford and East Hartford was reserved, praying that said ferries may be discontinued, as by petition on file, dated the 3d day of October, A. D. 1817.

This petition was brought to this assembly at its session in October, A. D. 1817; at which session, this assembly ordered notice of the pen-

dency of said petition to be given to the towns of Hartford and East Hartford, by leaving a true and attested copy of said petition and said order with the town clerk in said East Hartford, and a like copy with the town clerk in said Hartford, and to all others, by publishing said order in the Connecticut Courant, printed at Hartford, three weeks successively; the last publication at least six weeks before the second Thursday of May, 1818; and the said petition was continued to the present session of this assembly, notice having been given agreeably to said order; therefore, resolved.

The resolve of 1818 may be found in private acts, page 258.

K.

The subscribers, having been by the general assembly appointed commissioners to superintend the building of a bridge over Connecticut river, at Hartford, and to decide whether said bridge has been built, and the causeway in East Hartford meadows repaired, according to the intention of the resolve passed in May last, have at different times given directions respecting said bridge and causeway, and carefully examined the progress of the work, until it is claimed by the Bridge company that the whole has been finished agreeably to said resolve; whereupon, the commissioners have carefully inspected the bridge, piers, and causeway, and find that the whole work has been done in a substantial, workmanship manner, and according to the requirements of said resolve, excepting the draw, which is supposed not to have been constructed according to the strict and literal wording of the resolve, though in their opinion it meets the object intended by the general assembly, and of all those persons who have a particular interest in the draw. The resolve requires that it should be thirty feet wide; the opening between the western abutment and the pier is more than that distance, but the opening in the bridge is about twenty-four feet. The commissioners are therefore of opinion that the Bridge company have complied with the spirit and intention of said resolve, and do thereupon accept and approve of said bridge and causeway.

JONATHAN BRACE,
JOHN CALDWELL,
A. KINGSBURY,
Commissioners.

Hartford, December the 1st, A. D. 1818.

L.

The petition of S. W. Mills and others was brought to the session of the general assembly held in May, 1837, setting forth that the draw in said bridge was not as wide as is specified in the act of 1818; that it was made at the extreme west end of the bridge, and not over the channel of the river, &c.; signed by sundry inhabitants of Windsor and East Windsor, and was duly served on the Bridge company.

M.

FIFTH WEEK, TUESDAY, *May* 30*th*, 1837.

Joint standing committee on roads and bridges, on petition of Samuel W. Mills and others for alteration of the draw in Hartford bridge, reported adversely. Report accepted, and leave granted to withdraw the petition.

OFFICE OF SECRETARY OF STATE, *ss:*

HARTFORD, *May* 2*d*, 1843.

I hereby certify, that the foregoing is a true copy from the Journal of the House of Representatives, May session, A. D. 1837.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said State, this day and year last above written.

Attest: NOAH A. PHELPS,
Secretary of State.

N.

At an adjourned meeting of the inhabitants of the town of Hartford, legally holden at the City Hall, in the city and town of Hartford, on the first Monday of December, A. D. 1835:

Voted, that the increasing population and business of the town require every reasonable facility of communication with it, and that all unnecessary obstructions or burdens on the intercourse with the city are detrimental to its growth and prosperity.

Voted, that the act of the legislature, in 1818, discontinuing the ferry, obtained by the exertions of the Bridge company in direct opposition to a vote of this town, was unreasonable and unjust, and injurious to the interests of Hartford, inasmuch as it deprived the inhabitants of this town and East Hartford of their interests in the ferry, without compensation, subjected our citizens to double the toll they had been accustomed to pay on crossing the river, and conferred on a private company the enormous and dangerous monopoly of the entire intercourse with this city from the country east of Connecticut river.

Voted, that the representatives from this town in the next general assembly be, and they are hereby, requested to use their exertions to procure the repeal of the aforesaid act, and the restoration of the ferry.

Certified from record.

Attest: HENRY FRANCIS, *Town clerk.*

Hartford, June 6th, 1843.

O.

At an adjourned meeting of the inhabitants of the town of Hartford, holden in the representatives chamber, in the State House in said Hartford, on the 29th day of December, A. D. 1817, at 9 o'clock, A. M.:

Voted, that the selectmen be instructed to oppose any application to

the general assembly, by the Hartford Bridge Company, for suppressing the ferry, or in any way impairing the rights of the town.

The above is a true copy from Hartford town records.

Attest: HENRY FRANCIS, *Town clerk.*

Hartford, June 5th, 1843.

R.

This indenture, made this 14th day of May, A. D. 1842, between the town of Hartford, in the county of Hartford, by Jeremy Hoadley, Thomas C. Perkins, Joseph B. Gilbert, Charles Wells, and Walter Deming, a majority of the selectmen of said town, of the one part, and the Hartford Bridge Company, a corporation duly incorporated by the legislature of this State, and having an office and usual place of doing business in the city of Hartford, in the town of Hartford aforesaid, by Ward Woodbridge, of said Hartford, being thereto duly authorized by a vote of said company, of the other part, witnesseth:

That the said town of Hartford, for and in consideration of the covenants hereinafter contained on the part of said Bridge company and their successors to be performed and fulfilled, remise, release, assign, transfer, and convey to the said Hartford Bridge Company, their successors and assigns, forever, to and for their own proper use and behoof, all such right, title, and interest as the said town of Hartford have, or ought to have, in or to each, all, and every of the ferries in anywise by law heretofore established or existing over or across Connecticut river, between the town of Hartford, aforesaid, and the town of East Hartford, in said county, together with all such right, title, privilege, and claim of every kind, as the said town of Hartford have, or ought to have, of ferrying, transporting, or carrying over or across said river at the ferries aforesaid, or either of them, persons, property, or other thing or things, and to receive all lawful tolls therefor, as fully as the said town might receive and be entitled to the same were it not for the present instrument, with liberty to said bridge company, their successors and assigns, so far as said town are empowered to grant the same, either to use or not to use, or keep up or maintain said ferries, or either of them, at the election of said Bridge company, their successors or assigns; said town, however, saving and reserving to themselves, their successors and assigns, all such right, title, and interest as they now have, or ought to have, in or to any and all the lands appertaining to, or hitherto used in connexion with, said ferries, or any or either of them, whether such lands be covered with water or otherwise; except so far as the use of said lands may be reasonably necessary for the purposes of said ferries, or any of them, when open and in operation; and, so far as such land shall be necessary for that purpose, they are intended to be hereby conveyed.

And said Bridge company on their part, in consideration of the premises, hereby covenant and agree that they will pay to the said town of Hartford the sum of twelve hundred dollars, in twelve equal annual instalments of one hundred dollars each; the first payment to be made on the first day of September next, and the other payments on the first

day of September in each succeeding year, until the whole of said sum shall have been fully paid and satisfied; said sum being intended as an indemnity to said town for any loss that may be sustained by them in furnishing a boat or boats for the transportation of passengers during any temporary injury to said bridge. And said Bridge company further covenant, that during the continuance of this agreement, no person shall be subjected to any higher rates of toll for crossing the bridge of said company than are now established by law.

And it is further agreed by the respective parties, that in case said bridge shall be injured or destroyed, and said Bridge company neglect and refuse to repair or re-build said bridge, agreeably to the provisions of their charter, then and during the continuance of such neglect and omissions on their part, this agreement shall be suspended and of no effect.

In witness whereof, the said Ward Woodbridge, empowered as aforesaid, hath hereunto subscribed his name and affixed the seal of said Bridge company, and said selectmen have subscribed their hands and seals the day and year first above written.

In presence of Peter D. Stillman, Benning Mann.

WARD WOODBRIDGE.

JEREMY HOADLEY,
JOSEPH B. GILBERT,
CHARLES WELLS,
WALTER DEMING,
THOMAS C. PERKINS.

HARTFORD COUNTY, ss:

HARTFORD, *May 14th and 21st, A. D.* 1842.

Then personally appeared Jeremy Hoadley, Joseph B. Gilbert, Thomas C. Perkins, Charles Wells, and Walter Deming, selectmen of said town, on each of said days respectively, and acknowledged said instrument, by them signed and sealed, to be their free act and deed, and the free act and deed of said town of Hartford. Before me,

BENNING MANN,
Justice of Peace.

At a meeting of the directors of the Hartford Bridge Company, legally warned and held at the house of Griffin Stedman, in the city of Hartford, on the 14th day of May, 1842, to act upon the contract referred to in the following vote, all the directors of said company being present:

Voted, that Ward Woodbridge be and he is hereby fully authorized and empowered, for and in the name and behalf of the Hartford Bridge Company, to execute, seal, and deliver a certain instrument or contract in writing, this day made and entered into between the town of Hartford, by Jeremy Hoadley and others, selectmen, on the one part, and said Bridge company of the other part, releasing, on the part of

said town, their interest in the ferries across Connecticut river, between the city of Hartford and the town of East Hartford, to said company, and stipulating on the part of said company to pay to said town, in certain annual instalments, the sum of twelve hundred dollars.

A true copy of record.

Attest: C. C. LYMAN,
Clerk of Hartford Bridge Company.

At a special town meeting of the town of Hartford, legally warned and held at the City Hall in said town, on the 18th day of May, A. D. 1842, to act upon the contract hereafter referred to, the following preamble and vote was passed:

Whereas, an instrument purporting to be an indenture or contract between the town of Hartford of the one part, and executed in behalf of said town by Jeremy Hoadley and others, selectmen thereof, and the Hartford Bridge Company, and executed in behalf of said company by Ward Woodbridge, of the other part, releasing and conveying, on the part of said town, their interest in the ferries over and across Connecticut river, between the city of Hartford and the town of East Hartford, to said Bridge company, they covenanting to pay to said town the sum of twelve hundred dollars, in certain annual instalments, as therein specified, dated May 14th, 1842, and for further particulars reference to the same is had, has been this day submitted to said town, in lawful town meeting, for their deliberation and acceptance.

Voted, that said indenture or contract be and the same is hereby accepted and approved by said town, and to all intents and purposes ratified and confirmed on their part and behalf. Provided, that at any time after the term of twelve years, on vote of said town, the interest in said ferries herein conveyed shall revert to said town, they refunding to said company one-half the amount so paid as aforesaid.

A true copy of record.

Attest: HENRY FRANCIS, *Town Clerk.*

At a meeting of the directors of the Hartford Bridge Company, legally warned and held at the house of Griffin Stedman, in the city of Hartford, on the 18th day of May, 1842, all the directors of said company being present, the following preamble and vote was passed:

Whereas, an instrument purporting to be an indenture or contract between the town of Hartford, executed by Jeremy Hoadley and others, selectmen of said town, of the one part, and the Hartford Bridge Company, executed by Ward Woodbridge, in behalf of said company, of the other part, bearing date the 14th day of May, A. D. 1842, was this day submitted to a lawful town meeting of the inhabitants of the town of Hartford, legally and specially warned and holden for the purpose, for their approval and confirmation; and whereas at said meeting, on the part and behalf of said town, said indenture or contract was ratified and approved, with the following modification, viz: "Provided, that at any time after the term of twelve years, on vote of said town, the in-

terest in said ferries herein conveyed shall revert to said town, they refunding to said company one-half the amount so paid as aforesaid."

Voted, that said company accept said modification, and approve of the same, and they do hereby to all intents and purposes ratify, approve, confirm, and accept said contract, so modified as aforesaid.

A true copy of record.

Attest: C. C. LYMAN,
Clerk of Hartford Bridge Company.

HARTFORD, *May 24th*, 1842.

A true copy from Hartford town records.

Attest: HENRY FRANCIS, *Town Clerk.*

S.

Notice.

The legal voters of the town of Hartford are hereby notified that a town meeting will be holden at the City Hall in said town, on Wednesday, the 18th instant, at two o'clock, afternoon, to act upon a petition of the town of East Hartford, brought to the general assembly now in session, to open the ferries between said towns. Also, to act upon an indenture or contract, made by the selectmen of Hartford with the Hartford Bridge Company, in relation to any interest claimed by said town of Hartford in said ferries. Also, to take some action in respect to the horse boat owned by said town.

Hartford, May 13th, 1842.

JEREMY HOADLEY,
CHARLES WELLS,
JOSEPH B. GILBERT,
GEORGE GIDDINGS,
WALTER DEMING,
Selectmen.

Received for record May 13th, 1842.

Attest: HENRY FRANCIS, *Register.*

The above is a true copy of record.

Attest: HENRY FRANCIS, *Town Clerk.*

Hartford, June 5th, 1843.

Y.

At a General Assembly of the State of Connecticut, holden at Hartford, in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and forty-one—

Resolved, 1st. That the resolution passed by the general assembly, at their May session, 1836, upon the memorial of Caleb Stockbridge and others, repealing so much of the resolution of the general assembly, passed in May, 1818, as abolishes and interdicts the ferries between the towns of Hartford and East Hartford, be and the same is hereby repealed.

Section 2. That, in repairing and rebuilding the causeway between the towns of Hartford and East Hartford, the Bridge company may, and they are hereby authorized to, rebuild the same permanently of stone, provided they leave such sluices for back-water as shall, in the opinion of Eli Whitney Blake, and Henry Farnham, of New Haven, and Roswell B. Mason, of Bridgeport, (who are hereby appointed a committee for that purpose,) be equivalent to the bridging required by the existing provisions of law, and provided said causeway be rebuilt to the acceptance of said committee.

Whereas, at a meeting of the directors of said Bridge company, holden at Hartford on the 4th day of June instant, it was voted that provided the following variations in the rates of toll would be satisfactory to the public they request the general assembly, in case the ferry is suppressed between Hartfort and East Hartford, to provide that the toll for each

cart or wagon drawn by one horse shall be - -	6¼ cents,
for each one horse barouche - - - -	8 cents,
for each gig, chaise, chair, or sulkey - - -	8 cents,
for each four-wheeled carriage, with four or more than four horses - - - - -	25 cents.

Therefore resolved, That said company be, and they are hereby, authorized and directed to demand and receive from all persons passing on said bridge and causeway with the aforesaid vehicles the above named toll in lieu of the tolls specified in the present charter of said company.

I hereby certify, that the above and foregoing is a true copy of record [L. S.] in this office.

(Signed) ROYAL R. HINMAN, *Secretary*.

T.

Hartford Bridge Company.

1812, April 20.	Toll collected at the gate from April 1, 1811, to April 1, 1812, - -		$4,921 23
1813, " 1.	do.	April 1, 1812, to April 1, 1813,	5,533 96
1814, "	do.	" 1813, " 1814,	9,756 84
1815, "	do. - - - - -		8,626 24
1816, "	do. - - - - -		6,365 94
1817, "	do. - - - - -		4,783 60
1818, "	do. - - - - -		5,712 01

Blank—none recorded from 1818 to 1823.

1823, April 1.	Toll collected from April 1, 1822, to April 1, 1823, - - -	7,806 03
1824, "	do. - - - - -	8,743 18
1825, "	do. - - - - -	9,077 40
1826, "	do. - - - - -	9,837 42
1827, "	do. - - - - -	8,603 74
1828, "	do. - - - - -	10,416 21
1829, "	do. - - - - -	10,031 07

1830, April 1.	Toll collected from April 1, 1829, to April 1, 1830, - - -	$10,040	99
1831, "	do. - - - - - -	10,198	14
1832, "	do. - - - - - -	10,191	18
1833, "	do. - - - - - -	12,324	65
1834, "	do. - - - - - -	12,511	33
1835, "	do. - - - - - -	12,526	79
1836, "	do. - - - - - -	12,177	58
1837, "	do. - - - - - -	12,782	42
1838, "	do. - - - - - -	9,791	82
1839, "	do. - - - - - -	7,610	48
1840, "	do. - - - - - -	3,251	31
1841, "	do. - - - - - -	10,145	95
1842, "	do. - - - - - -	12,458	46
1843, "	do. - - - - - -	10,350	28

TREASURY OFFICE, *Hartford, June 7th*, 1843.

I certify that the foregoing is a true statement of the tolls collected at the gate of the Hartford Bridge Company for each year respectively, ending on the 1st of April, as appears of record in this office.

JABEZ L. WHITE, JR., *Treasurer*.

1819, April 1.	Tolls - - - - - -	$2,364	70
1820, "	do. - - - - - -	7,516	99
1821, "	do. - - - - - -	7,386	23
1822, "	do. - - - - - -	7,996	15

X.

At a general assembly of the State of Connecticut, holden at New Haven in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and forty-two.

The joint select committee to whom was referred the petition of the town of East Hartford, praying for the restoration of the ferry across Connecticut river, between the town of Hartford and East Hartford, respectfully report:

That they have fully heard the parties, with their testimony and counsel, and do find, that from time immemorial a ferry has been kept up and sustained across Connecticut river at said Hartford, the tolls upon which have been, from time to time, regulated by the general assembly.

That in the year 1783, when the town of Hartford was divided, and that portion thereof which now constitutes the town of East Hartford was set off and incorporated into a new town, the general assembly expressly recognised the privilege of the ferry as an existing franchise, and provided, in the act incorporating the said town of East Hartford, that the privilege of keeping one-half of said ferry at said place should belong to said town of East Hartford, during the pleasure of the general assembly. Your committee further find, that in the year 1808,

upon the petition of John Watson and others, a charter was granted for the construction of a toll bridge across Connecticut river at said Hartford, in which charter it was expressly provided, that nothing in that grant contained should then, or at any future time, lessen or impair, injure or obstruct, the right to keep and maintain the ferry between the town of Hartford and East Hartford. The Bridge company proceeded to construct the bridge, and to take toll thereat with great profit to themselves, until said bridge was seriously injured by a flood in the year 1817, up to which period the ferry had been continually maintained and kept in operation. In the year following, the said company preferred a petition to the general assembly, praying, among other things, for a suppression of said ferry, and procured the passage of an act suppressing the same. The said Bridge company having constructed a new bridge continued to enjoy a monopoly of the public travel across said river at said place, until the session of the general assembly in the year 1836, when upon the petition of Caleb Stockbridge and others, the right to keep up and maintain said ferry was again restored to said towns; which right the said town of East Hartford continued to exercise with profit to itself, and advantage to the public, until the session of the general assembly in 1841, when, upon the petition of said Bridge company, said ferry was again suppressed.

Your committee, finding that this right to maintain a ferry across Connecticut river at said place, has been exercised for more than a century and a half, and has been repeatedly recognised by the general assembly, and the tolls thereon regulated by law, and that the right has been recognised by the Hartford Bridge Company, inasmuch as they never sought to restrain the said town in the exercise of that right, (after the legislature restored the same in 1836,) by an appeal to a judicial tribunal, are of opinion that the town of Hartford owned the said franchise as property, and that upon a division of the town of Hartford the said property was divided between the towns of Hartford and East Hartford; that upon the passing of a resolution suppressing said ferry in the year 1818, the said ferry of right belonged to the towns of Hartford and East Hartford, and that the same was taken away without compensation therefor, not for public use, but for the private advantage of said Bridge company.

Your committee further find, that a re-establishment of said ferry is not only a matter of right, but would greatly promote the public convenience, and that the public travel will amply sustain the bridge and the ferry.

The committee therefore recommend that the prayer of said petition be granted, and the accompanying bill in form be passed.

Per order,

ALFRED BLACKMAN, *Chairman.*

Z.

Report.

The joint standing committee on the judiciary, to whom was referred the petition of "The Hartford Bridge Company," praying the general assembly to suppress the ferry between the towns of Hartford and East Hartford, or to relieve the company from keeping up the causeway, ask leave to report:

That they have fully heard the parties, with their proofs and exhibits, and upon such hearing the committee find: That the petitioners were incorporated by the general assembly in the year 1808; and that, under their charter of incorporation, they erected a bridge across Connecticut river, between the towns of Hartford and East Hartford, at an expense of about $96,000; that the company were authorized, upon the completion of their bridge, to demand and receive certain rates of toll, established by the general assembly, for crossing the same. And that it was, among other things, provided in said charter, that whenever the tolls should reimburse to the company the expenses of building and repairing the bridge and causeway, &c., with an interest of twelve per cent. per annum, then said bridge and causeway, and rate of toll, should be subject to the regulations and orders of the general assembly. And it was further provided, that nothing in said grant should then, or at any future time, in any way lessen, impair, injure, or obstruct, the right to keep up and maintain the ferries established by law between the towns of Hartford and East Hartford. And the committee find that said bridge and causeway were completed, although not in strict conformity to the charter, yet to the acceptance of a committee appointed by the general assembly in 1811; and that under the sanction of the legislature the company erected a gate, and collected the tolls prescribed by their charter, until the year 1818, when said bridge was carried away by a flood.

That by a resolve of the general assembly, passed in the year 1818, it was ordered that the company should, within eighteen months from the rising of the assembly, rebuild said bridge. That the piers should be raised to the acceptance of commissioners, appointed by the assembly; that a suitable draw should be erected over the channel of the river on the west end of the bridge; that the causeway should be raised, to the acceptance of the commissioners, not to exceed three feet higher than it then was. And that said bridge and causeway should be approved and accepted by the commissioners, so appointed by the general assembly as aforesaid.

And it was, by said general assembly, further resolved, that whenever said company should have repaired said bridge, and should have raised and repaired the causeway to the acceptance of the commissioners, the ferries, by law established between the towns of Hartford and East Hartford, should be discontinued, and that said towns should never thereafter be permitted to transport passengers across said river,

unless upon the contingency therein mentioned, and which contingency the committee find has never happened. And in and by the same resolve the general assembly established a new tariff of tolls, to be received by the company for passing said bridge, and considerably less than those prescribed by the original grant.

And your committee find that said bridge was repaired by said company, the piers raised, a draw constructed, the causeway raised and repaired in conformity to the provisions of said resolve, and at an expense to the company of about thirty thousand dollars; that from injuries since occurring to said bridge, by means of floods and ice, further and heavy expenditures have become necessary, and have been made; and that, from the time of the original grant to the present period, the company have received less than six per cent. per annum on the investments actually made; and that from injuries occasioned by the recent freshet, further and large expenditures must necessarily be incurred.

Your committee find that the ferries between the towns of Hartford and East Hartford were, in conformity to said resolve, discontinued until the year 1836, when, upon the memorial of Caleb Stockbridge, Timothy Williams, Asa Farewell, J. W. Bunce, Henry Waterman, and Thomas Belden, citizens of Hartford, the ferry was revived, and the resolve of 1818 was, by the general assembly, rescinded and repealed; since which time the ferry has been kept up in the manner hereinafter stated.

Your committee have considered the resolve of 1836, and the report upon which it is predicated, with all that deference and respect which is due to a solemn act of the general assembly. And they have carefully examined and weighed the arguments that have been urged before them in vindication of that act. But they cannot resist the conviction, that the resolve in question was unauthorized, inconsistent with all sound principles of legislation, and a departure from that regard to the public faith which all governments are bound to cherish and observe. It is true that the charter of 1818 is, by the terms of it, under the control of the general assembly, subject to be altered, amended, or repealed, at its pleasure. But it is equally true, that there is an implied undertaking, on the part of the general assembly, that this power should not be causelessly or unjustly exercised. And that so long as the company observe the terms of their charter, and discharge their obligations to the public, the property they have vested in this enterprise shall not be injuriously sacrificed or impaired. There can be little doubt that the suppression of the ferry was an important consideration with the company to induce them to incur the expenditures, under the resolve of 1818. It has however been urged, (and it is the principal ground on which the vindication of the act of 1836 is rested,) that the ferry in question was a franchise, in which the towns of Hartford and East Hartford had a vested interest, with which the legislature could not interfere; that the resolve of 1818 suppressing the ferry, without compensation to the owners, was a violation of vested rights, and therefore void. It is admitted that this franchise, if such it may be called,

was originally in the public; but it is claimed that it was granted originally to the town of Hartford. No express grant is shown to the committee; but it is shown, and the committee find, that as early as the year 1681, the ferry across Connecticut river was recognised by the general assembly, as a ferry then existing, which the town of Hartford was bound to support, and the emoluments of which it was entitled to receive. The same fact has been recognised by the general assembly from time to time; and the committee have no doubt that, from these facts, a grant may and ought to be presumed. The nature and extent of that grant must be also inferred from the facts disclosed in the case. This ferry, in common with other ferries in the State, has, from time to time, been regulated by legislative enactments. The rate of tolls, as well as the boundaries of the ferry, the number of boats, and the manner in which passengers are to be transported, have been prescribed and regulated by the general assembly. Nor do your committee find any instance, in which a grant of a ferry has been made, either to a corporation or an individual, wherein the continuance of the grant is not made to depend upon the pleasure of the legislature. Nor do they find any instance, where bridge companies have been incorporated, and bridges have come in the place of ferries, in which compensation has been made on account of the suppression of the ferry, except in the case of the Washington bridge, over the Housatonic, when a small compensation was made to one Hopkins, who appears to have been the lessee of the ferry under the town of Stratford.

Your committee do not deem it very important to determine, as far as the respondents are concerned, what were the rights of the town of Hartford, in virtue of the original grant; for in the year 1783, the town of East Hartford was incorporated; and in the act of incorporation it was provided: That the privilege of keeping one-half of the ferry across Connecticut river, at the places where the same had been established and kept, in the town of Hartford, should belong to the town of East Hartford, during the pleasure of the general assembly.

As therefore it is apparent that the only right which the town of East Hartford has in the ferry is derived from this act of incorporation, and as, by this, the continuance of the right depends on the pleasure of the general assembly, it is difficult to see how the town of East Hartford had a franchise with which the legislature could not interfere.

Still it may be claimed, and justly claimed, that the town of East Hartford ought not to have been deprived of a valuable privilege, in favor of another corporation, or even in favor of the public, without just compensation therefor. Whether that town was entitled to any, and if any to what, compensation for the suppression of the ferry, would depend not only on the value of the ferry, but also on the benefits she would receive from the bridge. And in regard to the first, the committee find that, in the year 1810, the ferry was leased to a Mr. Buck for five years, at $45 a year; that he kept up the ferry until 1813, when it appears to have been abandoned, and not to have been used as a ferry up to the time of the resolve of 1818. It would seem, there-

fore, that by the suppression of the ferry the towns of Hartford and East Hartford were rather relieved of a burthen than deprived of a benefit. On the other hand, the benefits which the town of East Hartford has derived from the bridge, from being furnished with an uninterrupted communication at all seasons of the year, with the city of Hartford, are confessedly numerous and important. The value of real estate has been greatly enhanced, and in many instances more than doubled; and of the numerous witnesses from East Hartford who were examined before your committee, no one was found to express the opinion that the advantages accruing to that town from sustaining the ferry could be in any measure commensurate with those derived from the bridge. Your committee are therefore of opinion, that the complaint of East Hartford, that they have been deprived of a valuable franchise without compensation, is wholly without foundation.

In regard to the interest which the community at large have in this question, the committee would remark, that although many witnesses have testified before them, that, in their opinion, the public convenience will be promoted by keeping open the ferry, yet that convenience has, upon examination, been found to consist principally in persons being enabled to pass the river, at certain seasons of the year, at a rate of toll somewhat less than that demanded by the Bridge company; and it is only at certain seasons, and those most convenient to the proprietors, that the ferry has afforded any accommodation to the public. It has not been kept up during the winter months, nor has any regard been paid to the requirements of the law, in respect either to the number and character of the boats, or to the attendance that has been furnished. And while the bridge furnishes a safe and easy communication at all seasons of the year, (subject indeed to those casualties against which no prudence can guard,) and at a rate of toll which the general assembly have deemed reasonable, your committee cannot think that either justice or expediency require that the ferry should be kept open.

The memorialists ask for such a modification of their charter as that, in repairing the causeway, they may be permitted to build permanently of stone, with suitable sluices for back-water, in lieu of the sixty rods of bridging which, under their present charter, they are required to maintain. As such a structure will not be subject to such a casualty as has recently swept away the dry bridge, and to which a wooden structure must always be liable, your committee deem it of great importance to the public that such an improvement should be made, provided it shall not endanger or injure the interests of the lifearian proprietors. And although your committee have not the skill which may enable them to come to a satisfactory conclusion on this subject, yet, from the evidence before them, they are inclined to the opinion that, under the superintendence of skilful and judicious men, the causeway may safely and ought to be rebuilt in the manner proposed. Upon the whole view of the case, the committee recommend the adoption of the accompanying resolutions. Per order,

HENRY STRONG, *Chairman.*

HARTFORD BRIDGE COMPANY vs. TOWN OF EAST HARTFORD et al. } Hartford county superior court.

Now the respondents in court, after the report of the committee has been returned to said court, except to the same, because they say that said committee, who were appointed to find the facts in said cause, have wholly omitted and neglected to find many of the facts in issue between the said parties, and averred by the said respondents in their answer to the plaintiff's bill, and have wholly neglected to report the same to this court; and particularly have said committee neglected to find—

1st. Whether the bridge erected by said company, under the charter of 1808, was injured and in part carried away in consequence of its having been constructed in disregard of said charter, so as that the feet of the arches were lower than was contemplated in said charter, and in consequence of the piers of said bridge being a less number of feet high than was required by said act of incorporation.

2. Because said committee do not find whether the second bridge was built in compliance with the act of 1818, except as to the draw; and do not find whether the causeway was or was not constructed pursuant to the provisions of said act.

3d. Because said committee have not found what right the town of Hartford claimed in said ferry in the month of May, 1842, whether one-half or the whole of said ferry.

4th. And said committee have not found whether the town of Hartford has or has not at any time, since the year 1808, recognised the right of East Hartford in said ferry, and to a moiety thereof.

5th. Nor have the said committee found whether the town of Hartford intended to convey, lease, or assign, to said Bridge company more than one moiety of said ferry right, nor whether any mistake intervened in said transfer and indenture.

6th. The committee aforesaid have neglected to find whether, as a matter of fact, the general assembly have at any time conferred any power upon said company to purchase, lease, or hold, any ferries across Connecticut river.

7th. And said committee have wholly neglected to find and report to this court, whether, at the time said indenture was executed, and when the same was acted upon by said town of Hartford, there was pending before the general assembly a petition in favor of East Hartford and against said Bridge company, praying for a restoration of said ferry to said East Hartford; and whether the same had been served upon said company; and whether they had appeared before said general assembly to contest the same; and whether said ferry was restored upon said petition pursuant to the prayer thereof.

8th. Said committee have omitted to find whether said Bridge company did not purchase or hire said ferry of the town of Hartford for the purpose of suppressing the same, and that they have never since the date of said indenture kept up said ferry.

9th. Because said committee have by mistake omitted to find whether

the towns of Hartford and East Hartford did or did not keep up and maintain said ferry jointly in the year 1839; and whether they did or did not divide the avails or income thereof, though they intended to find said facts.

10th. And said committee have by mistake omitted to find that the Bridge company did not, from the time said ferry was restored to said East Hartford, in the year 1836, to the time of commencing the present petition, bring any action at law or other suit against said town of East Hartford to try their right in said ferry.

11th. And said committee have not made part of their report the vote of said town of Hartford upon said indenture, so that the said court can determine whether the same was affirmed or not.

12th. And said committee have, by mistake, omitted to find that the town of East Hartford did lease said ferry, in 1818, for the sum of fifty dollars, and that said ferry was kept up by the lessee from February to December in 1818.

Wherefore the respondents pray that said report be not accepted, but refused as incomplete and unsatisfactory, in regard to said enumerated questions.

TOUCEY & CHAPMAN,
For respondents.

HARTFORD BRIDGE COMPANY
vs.
THE TOWN OF EAST HARTFORD et al.

Hartford county superior court, September term, 1843.

This court having enquired into the several matters set forth in the defendants' exceptions to the report of the committee, and having fully heard the parties thereon, finds:

1st. With respect to the sixth exception; that the several acts of the general assembly, referred to in said report, contain all the power conferred by said assembly upon said company to purchase, lease, or hold a ferry across Connecticut river.

2d. With respect to the seventh exception; that the petition which is stated in said report to have been pending when said indenture was executed, was pending when said indenture was acted upon by the town of Hartford; had been duly served upon said company, and the said company had appeared therein; that it prayed for a restoration of said ferry to the town of East Hartford; and that in pursuance thereof the resolve of the general assembly of May, 1842, was passed, as stated in said report.

3d. With respect to the ninth exception; that the town of East Hartford run a ferryboat across said river, at said ferry, from the year 1836 to the year 1841; and, in the month of January of the year 1839, a part of said bridge was carried away by a freshet in Connecticut river, and was thereby rendered impassable during the greater part of the same year; and that in consequence thereof the town of Hartford run a horse ferryboat across said river until the November following, when said

bridge was repaired, and rendered fit for the accommodation of travellers; and, during the latter part of the time they so ran their boats, they ran them upon an agreement made by the selectmen of the two towns to divide the avails or income received between the two towns; and did divide the same in pursuance of said agreement.

4th. With respect to the tenth exception; that the said Bridge company did not, from the time said ferry was restored to said East Hartford in the year 1836, to the time of commencing the present suit, bring any action at law, or other suit, against said town of East Hartford to try their right to said ferry.

5th. With respect to eleventh exception; that the vote of said town of Hartford, set forth among the documents, marked R, was the vote passed by said town upon said indenture; and in pursuance of the notice marked S in the documents, appended to said report.

6th. With respect to the twelfth exception; that the facts therein stated are not true.

7th. And, as to all the other matters contained in said exceptions, this court further finds, that said committee have found, and embraced in their report, all the material facts which were proved before them relating to the several allegations contained in said bill and answer.

This court therefore accepts said report, and finds the several matters therein stated to be true.

The question as to what decree shall be passed, or disposition made of the case, is reserved for the consideration and advice of the supreme court of errors.

WAITE, *J.*

A true copy of the original files, records, and proceedings in said cause.

L. T. PEASE, *Clerk.*

Supreme court of errors, June term, A. D. 1844.

HARTFORD BRIDGE COMPANY
vs.
TOWN OF EAST HARTFORD, &c.

This court advise the superior court that the petition be granted, and that an injunction issue in conformity with the prayer of the petitioner.

Superior court, March adjourned term, 1845.

Judge Storrs sat in this case. Injunction granted, and bill in form passed, as follows:

Adjourned superior court, Hartford county, April, 1845.

Bill in form.

Upon the petition of the Hartford Bridge Company shewing to this court that, by the general assembly of this State in 1808, they were constituted a body corporate and politic, with power to erect a bridge across Connecticut river between the towns of Hartford and East Hartford, and

build a causeway through East Hartford meadows, and to demand and receive certain rates of toll therefor; that they did, soon after, construct said bridge and causeway, and receive tolls thereat from that time to 1818, when said bridge was damaged by a flood, and became impassable; that the general assembly afterwards, in 1818, passed a resolve prescribing certain alterations in said bridge and causeway, and altering their tariff of tolls; and, as an inducement to the petitioners to incur the hazard of rebuilding said bridge, and to influence them to do so, and accept the tolls prescribed, it was provided by said resolve, that whenever the petitioners should have repaired said bridge, and raised and repaired said causeway, to the acceptance of said commissioners, the ferries between the towns of Hartford and East Hartford should be discontinued, and that said towns should never thereafter be permitted to transport passengers across said river, unless upon the contingency therein mentioned, which had never happened; that said bridge and causeway were repaired in conformity with said resolve, and to the acceptance of said commissioners on said bridge; that the petitioners, from the passing of said resolve to the date of said petition, took toll at said bridge agreeably to said resolve; and that said bridge was, and had at all times been, commodious and adequate to all public travel; and that the town of Hartford had released to them all the interest they might have in said ferries. And further shewing, that notwithstanding said prohibition and said pledge so given by the State, the town of East Hartford, during several seasons, to wit, from September, 1836, to June, 1841, occupied said ferry, and constantly transported passengers, during said period, across said river; and that said town were there transporting, passing by means of a horse-boat across said river; and that Samuel Brewer, one of the selectmen of said town, had the charge and management thereof; that said town had received in tolls at said ferry $11,000 and upwards, all which was taken from the petitioners.

And praying that said town, and said Brewer, their servants and agents, might be enjoined and commanded not to use or occupy said ferry, or transport passengers or property across said river, or do any act in relation thereto to the injury of the petitioners, as per petition on file, dated the 4th day of July, 1842, duly served and returned, appears.

This petition was brought to the September term of this court, 1842, when the parties appeared, and the respondents made an answer thereto, as on file. And said cause was, by legal remove, brought to an adjourned superior court, holden at said Hartford, on the 1st day of May, 1843, when Ebenezer Learned and John Stewart were appointed a committee to ascertain and report the facts in said case. And said committee, at said court, holden by adjournment on the 2d Tuesday of June, 1843, made their report to said court as on file; and said cause was continued to the superior court to be holden on the 4th Tuesday of September then next; at which term of said court the respondents filed their remonstrance or exceptions to said report, which was fully heard by said court; and thereupon said court accepted said report of said committee, and found the several matters therein stated to be true, and reserved the

same for the consideration and advice of the supreme court of errors; which court, at its session heretofore held in June, 1844, advised that the superior court grant an injunction in accordance with the prayer of said petitioners. And said cause, by legal remove, comes to the present adjourned term of said superior court; and now the parties appear; and this court having inquired into the facts stated in said petition and answer of the respondents, finds the allegations therein contained to be true, so far as found by said committee, and finds the several matters stated in the aforesaid report of the said Learned and Stewart to be true, as heretofore found to be true by said superior court at its September term, 1843.

It is therefore ordered and decreed by this court, that the said town of East Hartford, and the said Brewer, and all other, their servants and agents, be and they are hereby enjoined and commanded, under a penalty of ten thousand dollars, absolutely and forever hereafter not to use or occupy the said ferry or ferries heretofore used between said towns of Hartford and East Hartford, nor to transport passengers across said river between said towns, and receive toll therefor, unless on the happening of the contingency mentioned in said resolves of 1818, nor to do any act or acts in relation thereto which will divert the travel from said bridge, to the injury of said petitioners; and that the respondents pay to the petitioners the costs of said petition, taxed and allowed to be $198 86, and that execution issue therefor, accordingly: Provided, however, that nothing in this decree shall be construed to affect or impair the right of any person to pass on the ice of said river, as specified in said resolve of 1818.

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THE TOWN OF E. HARTFORD et al.

And now the said town of East Hartford, and the said Samuel Brewer, being aggrieved by said decree of said superior court, within twenty-four hours after final judgment in said case, file this their motion, that the record in said case may be transmitted to the next supreme court of errors, to be holden at Hartford, within and for the county of Hartford, on the 2d Tuesday of June, A. D. 1845, for a revision of the questions arising thereon; and they complain and say, that said decree is erroneous, and that said injunction ought not to be granted, and that said superior court erred and mistook the law, in proceeding to and rendering said final judgment; and they say that this motion is not intended for delay, and offer to give sufficient security to the adverse party, by a suitable recognisance, to pay all damages, if they fail to prosecute the same to effect; which motion is allowed; and now Roderick F. Fowler, of East Hartford aforesaid, recognised in the sum of one hundred dollars, to the adverse party, that the said town of East Hartford and the said Samuel Brewer shall prosecute their said motion in error to effect, and pay all damages, if they fail so to do.

EAST HARTFORD et al.
vs.
THE HARTFORD BRIDGE Co.

And now the plaintiffs in error complain and say, that in proceeding to and passing said decree, said superior court erred, and for causes of error the plaintiffs in error specially assign the following, to wit:

1st. That the said franchise of said ferries is admitted and alleged by said Hartford Bridge Co. in their bill, as a vested right in said towns of Hartford and East Hartford, by elder grant; but said superior court has by its said decree suppressed the same, and enjoined against its use, and said decree is contrary to the Constitution of the United States.

2d. The said franchise of said ferries is found by said committee, and by said court, to have been vested in said towns by elder grant, and said decree suppressing the same is contrary to the provisions of the Constitution of the United States.

3d. That that part of said act of the legislature of Connecticut, passed in the year of 1818, which purports to suspend, discontinue, and suppress the said franchise of said ferries, and the prior grant thereof to said towns of Hartford and East Hartford, and prohibiting the use thereof to either of said towns, is repugnant to the Constitution of the United States, and in violation thereof, and said decree upholds the said unconstitutional provision in derogation of the said elder grant.

4th. That said act of the legislature of Connecticut, passed in the year 1836, rescinding the said unconstitutional prohibition contained in said act of 1818, is a renewed grant, recognition, and confirmation of the said elder title of said ferry franchise, and is protected by the provisions of said constitution; but said decree abrogates and suppresses the said grant contained in said act, whereas said court ought, by its decree, to have upheld the same.

5th. That said act of the legislature of Connecticut, passed in the year 1842, recognising, restoring, and confirming the said elder grant of said ferry franchise, is a valid and constitutional grant to said original grantees and owners thereof, and said decree, suppressing the same, is contrary to the Constitution of the United States.

6th. That the said act of the legislature of Connecticut, passed in the year 1841, purporting to repeal the aforesaid act of 1836, was repugnant to the Constitution of the United States, and void; but said superior court adjudged the same to be valid.

7th. That said act of 1818 was intended by said legislature to prohibit the use of said ferry franchise, by either of said towns of Hartford and East Hartford, except under certain circumstances, when such use was to be continued by said towns, and was not intended to transfer the title from one to the other of said towns, and whether void or not void, cannot have that effect; and said court ought so to have decreed, and to have held that said ferry franchise continued to be vested equally in both said towns, but said court did not so decree.

8th. That said act of the legislature of Connecticut, passed in the

year 1836, with the consent and by the procurement of said towns of Hartford and East Hartford, and said act, passed in the year 1842, restoring the said former act, were valid declaratory laws, and enacted and declared with the assent of said towns, that the one-half of said ferry franchise was vested in said town of Hartford, and the other half in said town of East Hartford; but said superior court adjudged the said acts to be inoperative and void, and that said ferry franchise was vested wholly in said town of Hartford.

9th. That it was not material whether said ferry franchise was vested in one or both of said towns, as such prohibition and suppression thereof, by said act of 1818, would in either case be equally repugnant to the Constitution of the United States, and void, and destroy any title of the said Hartford Bridge Company, and said superior court ought so to have adjudged, but said court decreed otherwise.

10th. That the said Hartford Bridge Company, in their said bill, admit and allege a vested title to said ferry franchise, by elder grant, in said towns of Hartford and East Hartford, and allege a transfer of a moiety of said title from said Hartford to said East Hartford by said act of 1818, and aver a title to themselves, under said town of Hartford, by said lease, as ferry owners, which supposed title is the foundation of their said bill, and is void, and the said Hartford Bridge Company were and are incapable of taking or holding such title, and said superior court ought to have so decreed, but said court did not so decree.

11th. That said superior court, upon the facts alleged in said bill, and found in said cause, ought not to have decreed said injunction, but should have dismissed said bill.

Wherefore, and for other manifest reasons, the plaintiffs in error say, that said decree is erroneous, and ought to be reversed.

TOUCEY & CHAPMAN,
For the plaintiffs in error.

A true copy of the original petition, and the proceedings thereon, of the decree passed by the superior court, March adjourned term, 1845, and of the motion in error, and finding, and reservation, in said case.

CHAUNCEY HOWARD, *Clerk.*

At a supreme court of errors holden at Hartford, within and for the county of Hartford, State of Connecticut, on the second Tuesday of June, A. D. 1845.

Present: Honorable Thomas S. Williams, chief judge; honorables Samuel Church, Henry M. Waite, William L. Storrs, Joel Hinman, associate judges.

Hartford Bridge Company, a body politic, duly incorporated by the laws of this State, with power to sue and be sued, defend and be defended, and having an office and place of business in said Hartford, brought their petition to the superior court for the county of Hartford, sitting in chancery, against the town of East Hartford, praying for re-

lief in the premises as per petition on file, dated at Hartford, the 4th day of July, A. D. 1842. This case was continued from term to term, to the September term of said court, A. D. 1843, when it was reserved for the consideration and advice of this court.

This court, at the June term, A. D. 1844, advised the superior court that the petition of the said Bridge company be granted, and that an injunction issue in conformity with the prayer of the petitioners.

The said superior court, at its adjourned term in March, A. D. 1845, granted an injunction in conformity with the advice of this court.

Thereupon, the said town of East Hartford, by their counsel, filed a motion in error, praying that the records in said cause might be transmitted to this court at its June term, A. D. 1845, and bond having been given according to law, said motion was allowed, and said cause comes to this court duly certified as on file. And now the parties being fully heard by their counsel, this court doth adjudge that in the process, record, and judgment transmitted there is no error.

STATE OF CONNECTICUT,
Hartford county, ss:

Office of clerk of supreme court of errors, Hartford, Nov. 2d, 1846.

The foregoing is a true copy of record.
Attest: L. T. PEASE, *Clerk*. [SEAL.]

UNITED STATES OF AMERICA, *ss:*

To the Hartford Bridge Company, a corporation duly incorporated by the authority and laws of the State of Connecticut, with liberty and power to sue and be sued.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error to the supreme court of errors within and for the State of Connecticut, it being the highest court in said State in which a decision could be had, wherein the Town of East Hartford, in the county of Hartford, are plaintiffs, and you are defendants in error, to shew cause, if any there be, why the judgment on the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf; and wherein the plaintiffs in error complain that in proceeding to, and rendering said judgment, the court erred and mistook the law, in this, to wit, that the validity of certain statute laws of the State of Connecticut was drawn in question, on the ground of their being repugnant to the Constitution of the United States, and the decision of said court of errors was in favor of their validity; whereas said court should have adjudged said statute laws to be void, as being repugnant to the Constitution of the United States; and for a special assignment of errors the plaintiffs complain and say, that *that* the said franchise of said ferries is admitted and alleged by the said Hartford Bridge Company in their bill, and found by said committee and said court to have been a vested

right in said towns of Hartford and East Hartford, by elder grant from the colony and State of Connecticut, and said franchise was a vested right in said towns by elder grant, and was recognised, renewed, and confirmed by said act of the legislature of Connecticut, passed in the year 1836, and also by said act of the legislature of Connecticut, passed in the year 1842; and that the said act of the legislature of Connecticut, passed in the year 1818, so far as it purports to suspend, interrupt, and discontinue the said franchise of said ferries and the enjoyment thereof during the time, and from time to time, when said bridge and causeway should be maintained by said Hartford Bridge Company, and to abridge, modify, and suspend said elder grant to said towns of Hartford and East Hartford, and to prohibit in any degree the use of said franchise by either of said towns, and the said act of the legislature of Connecticut, passed in the year 1841, for the like purpose aforesaid, were repugnant to the Constitution of the United States, and in violation thereof, and ought, for that reason, to have been adjudged to be void; and said decree ought, for that reason, to have been reversed and set aside; but the said supreme court of errors did not so adjudge, but did adjudge the said act of the legislature of Connecticut, passed in the year 1818, so far as the same purported to affect the said ferries, and the said act of the said legislature, passed in the year 1841, to be valid, and did affirm said decree, and thereby sustain and perpetuate the said injunction against the said town of East Hartford and the said Brewer, and all others, their servants and agents, under a penalty of ten thousand dollars, absolutely and forever thereafter, not to use or occupy the said ferry or ferries theretofore used between the towns of Hartford and East Hartford, nor to transport passengers across said river between said towns, and receive toll therefor, unless on the happening of the contingency mentioned in said resolves of 1818, nor to do any act or acts in relation thereto which would divert the travel from said bridge to the injury of the said Hartford Bridge Company. Wherefore, the plaintiffs in error complain, that their said franchise by elder grant, which was granted, recognised, confirmed, and upheld by the legislative authority of the colony and State of Connecticut, and is still recognised and upheld by the legislative authority of said State, and its inviolability, secured by the Constitution of the United States, is suppressed and destroyed by the judgment aforesaid of said supreme court of errors, and by the decree in said cause, and they say the same ought to be reversed and set aside.

Given under my hand and seal at New Haven, in the State of Connecticut, this first day of November, anno domini one thou-
[L. S.] sand eight hundred and forty-eight.

WILLIAM L. STORRS,
A judge of the supreme court of errors of the State of Connecticut.

DISTRICT OF CONNECTICUT, *ss:*

Hartford, November 2d, A. D. 1848.

Then, by virtue hereof, I served this writ of error by leaving in the